



Council of the
European Union

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NOTE

From: General Secretariat of the Council
To: Delegations

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REV1; + ADD 2 to 4 - COM(2021) 731 final

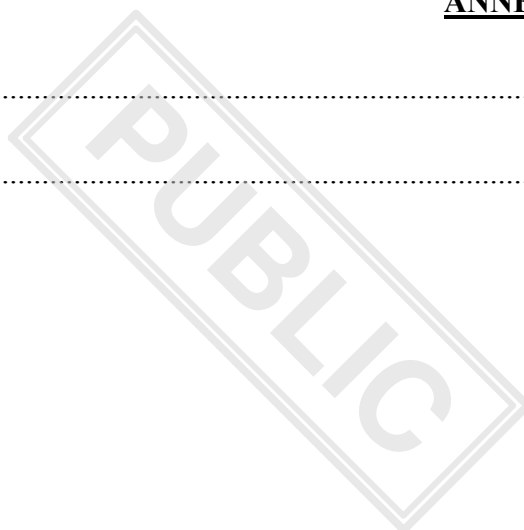
Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL on the transparency and targeting of political
advertising
- Comments from delegations

Delegations will find in Annex comments from delegations.

ANNEX

HUNGARY 3

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HUNGARY

In response to the Presidency's inquiry, Hungary wishes to share the following points regarding the proposed compromises (15955/23) on the regulation on the transparency and targeting of political advertising.

Regarding row 163g, i, o, p and r we are of the opinion that the proposed elements of the transparency notices reflect a realistic approach compared to previous suggestions of the European Parliament.

As for rows 200 and 201, we see no reason for specifically mentioning artificial intelligence, as we find the reference to "*additional analytical techniques*" general enough. Moreover, in our view the draft agreement continues to contain suggestions that are difficult to implement and appear to be more ideological than practical. (E.g. 200d: "*prepare an internal annual risk assessment of the use of those techniques on the fundamental rights and freedoms of natural persons and society as a whole; the results of these risk assessments shall be made publicly available.*")

In row 205 instead of "*add points*" we would suggest the term "*amend*" proposed in the Council mandate, which does not rule out the possibility of reducing the list.

Finally, **in row 249** we have no objection to increasing the period for adopting delegated acts from 3 to 4 years.

THE NETHERLANDS

- It remains unclear to us why the implementation deadline set out for the EC is at 24 months (row 163ac) but for MS at 18 months (Row 255). We would prefer an implementation period of 24 months for all parties involved. In addition, we would like to have clarification on the meaning of the fact that Article 2 and 3a shall apply as from the date of entry into force. What is the effect of this on MS?
- We would like to check whether the use of special categories of personal data is in the current agreement fully banned or whether it's still allowed when given explicit consent (we understand the former).
- Will the explicit consent to the processing of data for political ads be time-limited. In other words: will the consent be automatically withdrawn after a specific period of time?
- In the DSA the oversight authority on VLOPs and VLOSEs is placed at the level of the Commission. Can the Commission confirm that in the current proposal the oversight on Art. 12 and 12a is for VLOPs and VLOSEs also at the level of the Commission?
- In row 196, article 12(2)b an 'equivalent alternative' is discussed. Is in the current agreement legally ensured that this equivalent alternative is free of charge?
- Has the Commission information available on how the current proposal compares to the DSA. Are there points in deviation of the DSA? We believe some elements are a repetition on regulation already established in the DSA. Is this correct?
- What role is foreseen for the national DSC in this regulation? This remains a bit unclear for us.
- From our colleagues that advise us on oversight we get the input that the terminology 'liable and designed' creates a very high burden of proof, as the oversight authority will have to prove that there is a form of intent behind a political ad to influence the outcome of the elections. Does the EC see it the same way?
- Ref the emergency powers (row 214b): in the Netherlands the procedures when there is a violation of privacy laws are, in accordance with national law, quite lengthy and will make it very difficult to act before the elections. Has the EC thoughts on this or is it up to MS to see how to implement these 'emergency powers'?